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Report to the Secretary of the Interior

September 1986

PUBLIC LANDS

Interior Should Recover the Costs of Recording Mining Claims

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September 10, 1986

The Honorable Donald P. Hodel
Secretary of the Interior

Dear Mr. Secretary:

As part of our recent review of the adequacy of the Bureau of Land Management's (BLM) regulation of hardrock mining, conducted under the Mining Law of 1872, we reviewed BLM's cost recovery analyses of the mining claim recording fee—a fee designed to recover costs associated with recording mining claims.[1] We found that BLM's analyses did not consider many of the costs that Interior's cost recovery guidelines state can be recovered. BLM officials are aware that its $5 recording fee has not recovered program costs; however, BLM has not performed a new analysis to determine the full extent of these unrecovered costs. We believe that BLM should perform an analysis using Interior's cost recovery guidelines to determine the fee amount required to recover all appropriate recording costs and adjust the mining claim recording fee accordingly.

Background

Section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. 1744(b)) requires all persons holding mining claims on federal lands—those managed by BLM, the Forest Service, or any other federal agency—to record their mining and claim sites with BLM. According to BLM records, as of September 1985, about 2 million mining claims had been recorded with the agency. BLM collected an estimated $10 million in fees during fiscal years 1977 through 1985 for recording these claims. Section 304(a) of FLPMA (43 U.S.C. 1734(a)) gave the Secretary of the Interior the authority to establish reasonable filing and service fees to cover the costs of recording mining claims. The Department of the Interior set this fee at $5 on January 27, 1977. BLM is considering increasing the fee, but as of July 1986 it has not done so.

Objective, Scope, and Methodology

Our objective was to determine whether BLM has been recovering the costs associated with recording mining claims. We conducted our audit work, which was completed in July 1986, at the Department of the Interior headquarters in Washington, D.C. We interviewed the Chief and other officials in the Division of Mining Law and Salable Minerals, the

[1]Public Lands: Interior Should Ensure Against Abuses From Hardrock Mining (GAO/RCED-86-48, March 27, 1986).

Associate Deputy Director for Energy and Minerals Resources, the Chief of the Financial Management Systems Branch of the Finance Division, a regulations specialist in the Office of Legislation and Regulatory Management, the Director of the Office of Financial Management, and officials in the Office of the Solicitor. We also verified our analysis of the costs associated with BLM's mining claim recording program with budget analysts in BLM's Office of Budget and officials in BLM's Division of Mining Law and Salable Minerals.

To determine what costs should have been included in BLM's cost recovery analyses, we examined cost recovery policies established by the Office of Management and Budget and Interior's May 1982 departmental manual section on cost recovery. We then reviewed BLM's cost recovery analyses to assess whether BLM used appropriate criteria to determine if it was recovering the costs for recording mining claims. In order to identify BLM's costs for recording mining claims, we reviewed budget data from BLM's financial management system.[2] For fiscal years 1983 and 1984, we reviewed budget costs attributed to recording mining claims from Interior's PAY/Personnel system.[3]

We did not assess the reliability of the two computer systems used for (1) recording mining claims and (2) recording costs and time charges against recording mining claims and other activities. In addition, we did not verify that all mining claim recording fees were collected. These tasks were beyond the scope of this review. We also had no basis for questioning the accuracy of the fee collections. With these exceptions, we performed our work in accordance with generally accepted government auditing standards.

Interior's Criteria for Determining Cost Recovery

Interior's policy for recovering costs is based on the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701), which authorizes federal agencies to impose fees for certain services. Interior's policy also reflects the administration's policy, established in 1981 to recover allocable federal costs through user fees. In proposing to eliminate what were deemed unnecessary or unwarranted federal subsidies, the administration called for recovering federal costs when specific beneficiaries—that

[2]The financial management system is BLM's computerized accounting system and generator of financial management reports.

[3]The PAY/Personnel system is maintained by the Bureau of Reclamation for all of the Department of the Interior. It tracks all payroll and personnel data and generates all paychecks and payroll reports, which are then fed into the financial management system.

is, persons who receive special services, goods, or licenses—could be identified.

Interior's departmental manual requires all bureaus and offices to establish fees that recover the organization's direct and indirect costs for these services as long as these charges do not conflict with any statutory authority. Interior's manual also lists the specific direct and indirect costs that should be included in cost recovery analyses.

BLM's Previous Analyses of Mining Claim Recording Fees

Although previous BLM cost recovery analyses showed that the recording fee was generally recovering program costs, we found that BLM did not include in its analyses many direct and indirect costs of recording mining claims that Interior's cost recovery policy states can be recovered through user fees. In fact, the only cost that was considered was the portion of the salaries of BLM employees that was directly attributable to recording mining claims.

On July 15, 1983, BLM prepared an analysis of the mining claim recording program that included an analysis of the costs of recording mining claims from fiscal years 1978 through 1982. According to this analysis, BLM took in more money from its recording fees during those years than it spent to provide mining claim recording services. On March 12, 1984, BLM officials performed a second cost recovery analysis using actual budget figures for fiscal years 1978 through 1983 and estimated budget figures for fiscal years 1984 and 1985. This analysis also concluded that, except for fiscal year 1983, more money was being collected in recording fees than was being spent on BLM services.

Using Interior's departmental manual as a basis, we reviewed BLM's March 12, 1984, cost recovery analysis, which had been updated to include fiscal year 1984 data. For fiscal year 1984, BLM estimated mining claim recording fee collections of $711,235 and program costs totaling $750,000. We found, however, that BLM did not include in its analysis many direct and indirect costs that, according to the departmental manual, may have been recoverable. These costs totaled about $1.7 million in fiscal year 1984.

Specifically, BLM's cost recovery analysis for fiscal year 1984 did not consider about $379,000 in direct costs related to recording mining claims, such as

- the staff time required to record mining claims by the Denver Service Center,
- fringe benefits of employees (i.e., retirement, health insurance, and life insurance),
- employee leave and holidays,
- travel and transportation, and
- procurement and equipment.

Furthermore, BLM did not consider any indirect or support costs in its cost recovery analysis for recording mining claims. The support costs totaled about $1.3 million in fiscal year 1984 and include categories such as

- program coordination,
- public information and inquiries,
- training,
- clerical support,
- technical program direction,
- capitalized equipment,
- budget and program development,
- filings, and
- personnel transfers.

According to the BLM official responsible for developing the cost recovery analyses, who is the program leader for mining claim recordation and mining law budget, he was not aware of the cost recovery guidelines in Interior's departmental manual and therefore did not conduct the extensive cost recovery analyses that the guidelines required. In a 1983 report to the Secretary of the Interior, we identified a similar problem with Interior's cost recovery program as it related to oil and gas activities on Alaska's federal onshore lands.[4] In that report, we noted that BLM's Chief of the Fluid Mineral Operations Division and BLM's Chief of the Fluid Mineral Leasing Division were not aware of Interior's then-new, Department-wide cost recovery guidelines and thus were not conducting the extensive cost recovery analysis that the guidelines require. We recommended that the Secretary take steps to ensure that bureaus and offices comply with the expanded program to recover appropriate costs.

[4]Compliance with the Department of the Interior's Cost Recovery Program Could Generate Substantial Additional Revenues (GAO/RCED-83-94, Sept. 6, 1983).

Since the issuance of our 1983 report, Interior's Office of Financial Management issued an amendment to the cost recovery section of the departmental manual requiring that bureaus and offices include more quantitative information on program costs and receipts in cost recovery reports to the Office of Financial Management. Further, the reporting date was changed from May 1 to December 30, to allow for the inclusion of complete fiscal year information. The purpose of these amendments, among other things, is to provide a basis for substantiating and reconciling program costs and receipts with accounting records and to help identify areas where cost recovery improvements can be made.

BLM is also in the process of drafting changes to its regulations pertaining to recording mining claims. Among the changes being considered is an increase in the mining claim recording fee to $10. According to BLM's program leader for mining claim recordation and mining law budget, however, no new analysis of the costs of recording mining claims has been performed.

Conclusions and Recommendation

On the basis of the guidelines in Interior's departmental manual, we believe that the direct and indirect costs associated with recording mining claims can be recovered. Compliance with Interior's cost recovery policy and guidelines could have increased fee collections by up to $1.7 million in fiscal year 1984. We believe that comparable savings could be realized in the future if BLM follows Interior's cost recovery guidelines for determining recoverable costs associated with recording mining claims.

We recommend that before increasing the mining claim recording fee, you direct that a new cost recovery analysis be undertaken for BLM's mining claim recording program. This analysis should use Interior's departmental manual as the criterion for determining all appropriate costs, both direct and indirect, that are incurred in recording mining claims and that can legally be recovered. If warranted, the fee should be adjusted, on the basis of Interior's analysis, to bring it into compliance with administration and departmental policy to recover Interior's costs of recording mining claims.

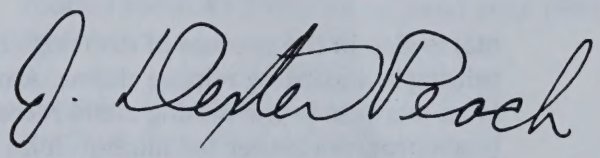
Agency Comments

Interior agreed with our recommendation that a new cost recovery analysis be undertaken for BLM's mining claim recording fee. Interior stated that this analysis will be conducted in fiscal year 1987 and will use administration and departmental policies for determining cost recovery

practices. Among the factors Interior will consider in its analysis will be direct and indirect filing costs and benefits to the public and claimants. (See app. I.)

We are sending copies of this report to the Senate Committee on Energy and Natural Resources, the House Committee on Interior and Insular Affairs, and other interested parties.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

Comments From the Department of the Interior

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 21 1986

Mr. J. Dexter Peach
Assistant Comptroller General
Resources, Community, and Economic Development Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

We have reviewed your draft report entitled Public Lands: Interior Should Recover the Costs of Recording Mining Claims (GAO/RCED-86-217), as it refers to cost recovery for mining claims recorded under Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA).

We agree with your recommendation that an updated cost recovery analysis be undertaken for BLM's mining claim recordation program. We intend to conduct this analysis in Fiscal Year 1987, and will use Administration and Departmental policies for determining future cost recovery practices.

Consideration to the following factors will be included in the analysis:

- Current and projected levels of filing activity.
- Current and projected filing costs, both direct and indirect.
- Benefits accruing to claimants.
- Benefits accruing to the public.
- Fiscal impacts on mining claimants, and
- Other pertinent factors.

Thank you for the opportunity to review and comment on this draft report.

Sincerely,

James E Cason

ACTING Assistant Secretary - Land
and Minerals Management

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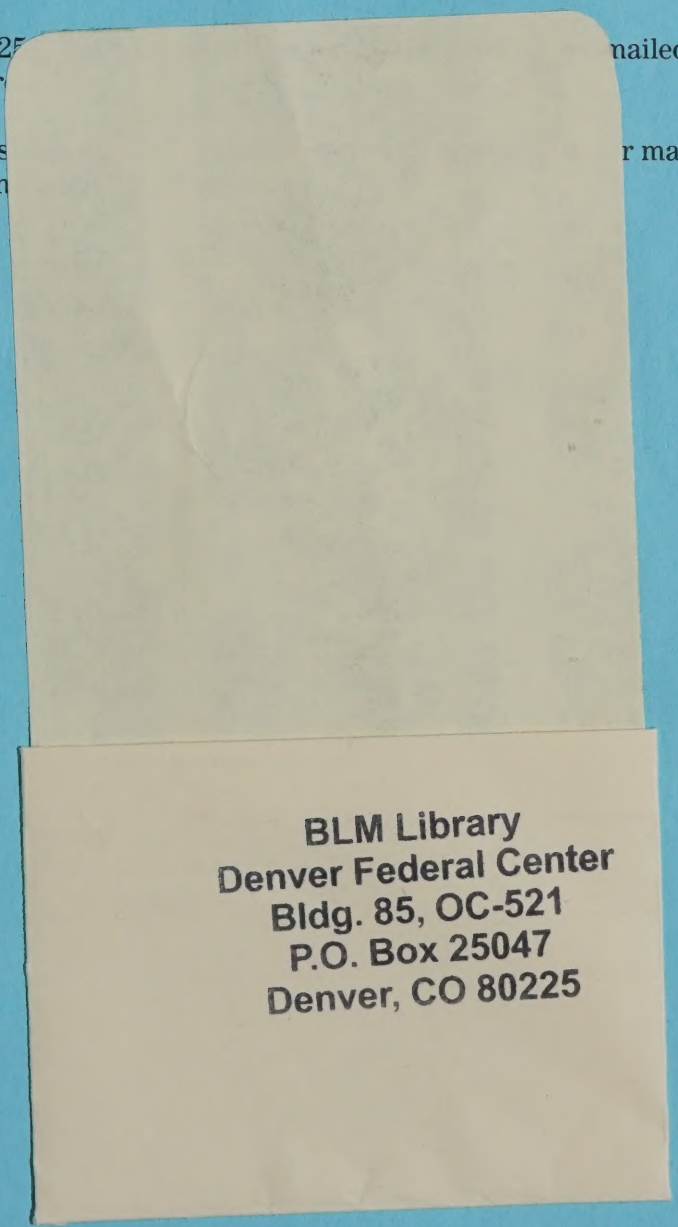
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